

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.f.

Meeting Type: Regular

Meeting Date: Jan 28, 2016

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Twickenham Square Acknowledgment Agreement regarding the Development Agreement.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute an Acknowledgment Agreement regarding the Amended and Restated Development Agreement for Twickenham Square, as assigned to Huntsville Hotels, III, LLC, by Partial Assignment and Assumption of Development Agreement dated October 19, 2012.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____ Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: 1/27/2016

RESOLUTION NO. 16-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to execute an Acknowledgment Agreement by and between the City of Huntsville and Huntsville Hotels, III, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Acknowledgment Agreement between the City of Huntsville and Huntsville Hotels, III, LLC," consisting of two (2) pages, and the date of January 28, 2016, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 28th day of January, 2016.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 28th day of January, 2016.

Mayor of the City of
Huntsville, Alabama

THIS INSTRUMENT PREPARED BY:

Sarah E. Barr, Esq.
Latham & Watkins LLP
330 North Wabash Avenue, Suite 2800
Chicago, Illinois 60611

STATE OF ALABAMA }

MADISON COUNTY }

Acknowledgement Agreement

Pursuant to that certain Amended and Restated Development Agreement dated as of July 26, 2012, as amended and by the Amendment to Amended and Restated Development Agreement dated October 19, 2012 (the "Agreement"), The City of Huntsville, an Alabama municipal corporation ("City"), certifies, acknowledges and agrees to SHG SCG Ventures II, L.P., a Delaware limited partnership, and to its assignee, Hotel Huntsville, L.P., as buyer, and together with its successors, designees and assigns (collectively, "Buyer") under that certain Agreement of Purchase and Sale dated as of October 8, 2015, as may be amended from time to time, between Buyer and Huntsville Hotels III, LLC ("Seller"), as Seller and as a current Developer (as that term is defined in the Agreement) under the Agreement (together with its successors and assigns, the "Developer"), and to First American Title Insurance Company ("First American"), and to any lender or other financing source of Buyer or of any of Buyer's affiliates and their successors and assigns (collectively, "Lender"). Capitalized terms used herein but not otherwise defined shall have the meaning given to such terms in the Agreement. The undersigned hereby acknowledges and agrees as follows:

1. Seller partially assumed and assigned the Agreement pursuant to that certain Partial Assignment and Assumption of Development Agreement, dated as of October 19, 2012, by and between Gallatin Street Partners, LLC, as assignor, and Seller, as assignee, recorded as Document No. 20121019000675940, in the Office of the Judge of Probate of Madison County, Alabama on October 19, 2012.

2. Pursuant to Section 11.1 of the Agreement, the term of the Agreement expired upon the completion of the Project (as defined in the Agreement).

3. The Agreement is of no further force or effect with respect to Seller, the City Parking Garage (as defined in the Agreement) or Gallatin Street Partners Project B (as defined in the Agreement), and Seller has no continuing obligations under the Agreement.

4. Pursuant to and in accordance with the Agreement, the City's and Seller's rights and obligations with respect to the City Parking Garage are currently governed by that certain City Parking Garage Lease Agreement (Project B Component), dated as of October 19, 2012, by and between the City and Seller (by assignment from Gallatin Street Partners, LLC, dated October 19, 2012, and recorded as Document No. 20121019000675950, in the Office of the Judge of Probate of Madison County, Alabama on October 19, 2012).

[Remainder of Page Intentionally Left Blank; Signature Page to Follow]

IN WITNESS WHEREOF, the undersigned has caused this Acknowledgement Agreement to be executed under seal and delivered as of the date first above written.

CITY

**CITY OF HUNTSVILLE,
an Alabama municipal corporation**

By: _____

Name: Tommy Battle

Title: Mayor

STATE OF ALABAMA }
 }ss
COUNTY OF MADISON }

I, the undersigned a Notary Public in and for said County in said State, hereby certify that Tommy Battle, whose name as Mayor of the City of Huntsville, an Alabama municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Alabama municipal corporation.

Given under my hand and official seal this 28th day of January, 2016.

[SEAL]

Notary Public

My commission expires: _____